

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

Orbital Technologies Corporation,

Case No. 08-C-220-C

Plaintiff,

v.

PFO Lighting, Inc.

Defendant.

**DECLARATION OF JUSTIN E. GRAY IN SUPPORT OF DEFENDANT'S MOTION TO
FILE AMENDED ANSWER AND COUNTERCLAIM**

Justin E. Gray declares as follows:

1. I am an associate at Foley & Lardner LLP. Foley & Lardner represents the Defendant ("PFO") and I am personally involved in that representation. I have personal knowledge of the matters set forth herein and am competent to testify thereto.
2. Attached as Exhibit A is a true and correct copy of U.S. Patent No. 5,012,609.
3. On December 22, 2008, plaintiff Orbital Technologies Corporation ("Orbitec") produced over 65,000 pages of documents to PFO, some of which concern work performed by Orbitec related to plant LED lighting systems. Attached as Exhibit B is a true and correct copy of the letter sent from Dorsey & Whitney LLP accompanying the document production.
4. Before December 22, 2008, Orbitec's complete document production in this litigation consisted of less than 6,000 pages of documents. *See* Exhibit B.
5. The December 22nd production responded to PFO requests for production served on Orbitec on October 24, 2008. Attached as Exhibit C is a true and correct copy of PFO's Second Set of Requests For the Production of Documents and Things, served October 24, 2008.

6. The requests for production served on October 24, 2008 included numerous requests relating to work performed by Orbitec on plant LED lighting systems prior to December 2003 (the filing date of the provisional application that ultimately led to the '018 patent). *See* Exhibit C.

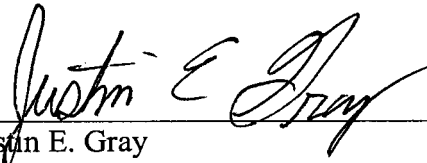
7. On November 24, 2008, Orbitec stated in its objections and responses to PFO's requests for production that it would not produce any documents relating to plant LED lighting systems. Attached as Exhibit D is a true and correct copy of Orbitec's Responses to Defendants' Second Set of Requests for the Production of Documents and Things. *See* pp. 3-5.

8. After a meet and confer on December 5, 2008, Orbitec agreed to produce certain categories of documents relating to plant LED lighting systems. Attached as Exhibit E are true and correct copies of communications regarding the meet and confer.

9. The first batch of these documents were produced on December 22, 2008. *See* Exhibit B.

I declare under penalty of perjury under the Laws of the United States that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 15th day of January 2009.


Justin E. Gray